

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

JENNIFER LYNN WARD,

Defendant and Appellant.

F077234

(Super. Ct. No. 4002215)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Stanislaus County. Scott T. Steffen, Judge.

Patrick J. Hennessey, Jr., under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Louis M. Vasquez and Amanda D. Cary, Deputy Attorneys General, for Plaintiff and Respondent.

-ooOoo-

---

\* Before Levy, Acting P.J., Smith, J. and DeSantos, J.

Following a contested violation of probation hearing the trial court found appellant willfully violated probation by failing to self-surrender to serve her county jail sentence. On appeal, appellant contends the trial court's finding was not supported by sufficient evidence. We conclude the evidence produced at the hearing was sufficient to support the finding of a violation, and affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

On August 4, 2017, appellant pled no contest to possession for sale of a controlled substance (Health & Saf. Code, § 11351) and possession of ammunition by a prohibited person (Pen. Code, § 30305, subd. (a)(1)). At sentencing, the court suspended imposition of sentence and placed appellant on probation with the conditions that she obey all laws, obey orders of the court, and serve 300 days in county jail. The court ordered appellant to self-surrender on October 6, 2017.

On January 19, 2018, the court revoked probation and issued a bench warrant based on appellant's failure to self-surrender to county jail. Appellant was subsequently arrested on the bench warrant, and for possession of methamphetamine, on February 13, 2018.

At a contested violation of probation hearing, the court took judicial notice of the following: appellant's original surrender date was October 6, 2017; the court subsequently granted appellant's request to continue the surrender date to December 6, 2017, and again to December 27, 2017; the court was notified by letter on January 4, 2017, that appellant had failed to surrender; and the court issued a bench warrant on January 19, 2018.

The sole witness at the violation of probation hearing was Deputy Sanjay Prasad of the Stanislaus County Sheriff's Office. He testified he reviewed appellant's jail records and confirmed she did not self-surrender on December 27, 2017, and was not incarcerated until she was arrested on the bench warrant on February 13, 2018. Prasad further testified that on December 5, 2017, appellant attempted to turn herself into the

county jail, but was directed to fill out an application for custody alternatives. Jail records showed appellant never submitted a completed application.

Following the violation of probation hearing, the court found appellant willfully violated her probation based on her failure to self-surrender. The court sentenced her to the mitigated term of two years for possession for sale of a controlled substance, and a concurrent 16-month term for possession of ammunition by a prohibited person.

### **DISCUSSION**

Appellant contends the trial court's finding she violated probation was not supported by sufficient evidence. We disagree. Penal Code section 1203.2, subdivision (a), authorizes the trial court to revoke probation if it has reason to believe that the person has violated any of the probation conditions. The facts supporting revocation need only be proved by a preponderance of the evidence, (*People v. Rodriguez* (1990) 51 Cal.3d 437, 441) and the evidence must only show the violation was willful (*People v. Galvan* (2007) 155 Cal.App.4th 978, 981-982). The court has broad discretion in determining whether a probation violation has occurred. (*People v. Rodriguez, supra*, 51 Cal.3d at p. 443.) “ ‘[O]nly in a very extreme case should an appellate court interfere with the discretion of the trial court in the matter of denying or revoking probation.’ ” (*Ibid.*)

The evidence produced at the violation of probation hearing showed appellant failed to timely self-surrender to the custody of the sheriff in violation of the conditions of her probation. Court and jail records established appellant failed to self-surrender on December 27, 2017, and was not brought into custody until she was arrested on an outstanding warrant on February 13, 2018. Given that 48 days passed between appellant's surrender date and the date of her arrest, the trial court reasonably inferred appellant willfully violated her probation because there is no evidence she attempted to rectify the situation by self-surrendering late or adding the case onto calendar to request a new surrender date.

Appellant contends the violation was not willful because she attempted to self-surrender on December 5, 2017, but sheriff's employees directed her to apply for custody alternatives instead of taking her into custody. However, two days after she obtained the application the court granted appellant's request to extend her surrender date to December 27, 2017. While the court acknowledged the actions of the sheriff's office briefly placed appellant in a state of "limbo," it reasonably concluded being directed to apply for custody alternatives did not abrogate appellant's responsibility to self-surrender, particularly after receiving an extension from the court.

Appellant also asserts the trial court improperly considered appellant's arrest for possession of methamphetamine as evidence of a probation violation, because the prosecution did not present evidence establishing appellant possessed methamphetamine during the hearing. We find no support for this claim in the record. When the court made its ruling, it specified the basis for the violation was appellant's willful failure to timely self-surrender. Although the court asked the prosecutor whether his office would be filing charges based on appellant's possession of methamphetamine arrest, it did so after the close of evidence while determining the appropriate sentence. There is no indication the court relied on the fact of the arrest in its conclusion appellant violated probation. Therefore, the trial court did not abuse its discretion, and its finding of a violation was based on sufficient evidence.

#### **DISPOSITION**

The judgment is affirmed.